Court No.2

Writ Petition No.518 (M/S) of 2002

Balwant Singh and others …….. Petitioners

Versus

Collector, District Hardwar
and others ……. Respondents.

……

Hon'ble P.C. Verma, J.

This writ petition arises out of the proceedings under Sections 34 & 35 of the U.P. Land Revenue Act, 1901.

The claim for mutation was made on the basis of will. It is being highly contested. In a case of mutation based on a will if the case is highly contested, it will be appropriate for the person claming title to file a suit under Section 229-B of U.P. Zamindari Abolition and Land Reforms Act for declaration of his title based on a will, so that the genuineness of the will may be proved which cannot be proved in proceedings under Sections 34 & 35 of the U.P. Land Revenue Act which proceedings are summary in nature.

Learned counsel for the respondent No.3 pointed out that no probate has been issued by the District Judge and will is also unregistered. However, registration of the will is not required but genuineness of the will is definitely required to be proved beyond doubt. Therefore, I am not inclined to enter into the order passed in these proceedings. The petitioners may avail remedy available to him.

Learned counsel for the petitioners submits that the petitioners may be permitted to file suit under Section 229-B of the U.P. Zamindari Abolition and Land Reforms Act within a period of two months and for two months the parties may be directed to maintain status quo. In the interest of justice, the petitioners are permitted to file suit under Section 229-B of the U.P. Zamindari Abolition and Land Reforms Act within a period of two months and for two months the parties shall maintain status quo as exists today.

The petition is disposed of finally with the aforesaid directions.

(P.C. Verma, J.)

14.11.2002
P.Singh